



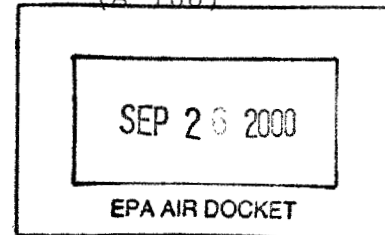
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

A99-29  
I-B-156

**AUG 28 2000**

Chairman Apesanahkwat  
Menominee Tribal Legislature  
P.O. Box 397  
Keshena, Wisconsin 54135

REPLY TO THE ATTENTION OF:  
(A-18J)



Dear Chairman Apesanahkwat:

I am writing to inform you of your opportunity to recommend 8-hour ozone air quality standard attainment/unclassifiable or nonattainment designations for your tribal lands by September 30, 2000.

The United States Environmental Protection Agency (EPA) promulgated a new 8-hour ozone health based, National Ambient Air Quality Standard (NAAQS) in July 1997. Upon promulgation of a new standard, section 107(d)(1) of the Clean Air Act (CAA) requires EPA to designate areas as either attainment/unclassifiable or nonattainment for the new standard. It is worth noting that the United States Court of Appeals for the District of Columbia Circuit issued a ruling on May 14, 1999, that raised questions about our ability to enforce the 8-hour ozone NAAQS. However, the decision specifically noted EPA's obligation to designate areas for the revised standard regardless.

On March 28, 2000, EPA issued guidance to States and Tribes on developing recommendations for designations of attainment/unclassifiable or nonattainment under the 8-hour ozone NAAQS (enclosed). As the guidance memorandum indicates, Tribes have the opportunity to submit to EPA designation recommendations for their lands. Because this is a new opportunity for many Tribes, on July 17, 2000, EPA issued additional guidance to Tribes which offers further details on making designation recommendations for their "Indian country" (enclosed).

Once submitted, EPA will review the recommendations made by Tribes (and States). The EPA's response to the Tribes' 8-hour ozone designations will begin a 120-day consultation period. During this time, EPA will work with each Tribe on any differences in opinion regarding designations and boundaries for 8-hour ozone nonattainment areas. The EPA will finalize designations no sooner than the end of this 120-day period.

It should be noted that Tribes are not required to recommend designations. In cases where a Tribe elects not to submit a recommendation, EPA, in consultation with the Tribe, will promulgate the designation it deems appropriate on their behalf.

The EPA's preliminary analysis of the data representative of the lands within your jurisdiction is that the data suggest an attainment/unclassifiable designation for the 8-hour ozone NAAQS. For the years 1997-1999, representative ambient air monitoring sites have measured ozone concentrations that do not exceed the 8-hour ozone standard. This data and other related information is available on the Internet at [www.epa.gov/ttn/rto/areas](http://www.epa.gov/ttn/rto/areas).

We recognize that the time line for making recommendations is relatively short. The EPA's Region 5 office is committed to providing assistance to Tribes interested in making a designation recommendation. If you have any questions, please contact me or have your staff contact Benjamin Giwojna of the Air and Radiation Division at (312) 886-0247 or [giwojna.benjamin@epa.mail](mailto:giwojna.benjamin@epa.mail).

Sincerely,



Bharat Mathur, Director  
Air and Radiation Division

\* Enclosures

cc: Gary Schuettpeiz  
Menominee Indian Tribe of Wisconsin

Lloyd Eagan  
Wisconsin Department of Natural Resources